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8 IN THE UNITED STATES DISTRICT COURT
9 EASTERN DISTRICT OF CALIFORNIA

10 UNITED STATES OF AMERICA,
11
12 Plaintiff,
13 v.
14 ALEXIS MELCHOR-GUZMAN,
15 Defendant.

CASE NO. 1:20-CR-00019-DAD
PLEA AGREEMENT
COURT: Hon. Dale A. Drozd

16
17 I. INTRODUCTION

18 A. Scope of Agreement

19 The superseding information in this case charges the defendant with possessing a firearm in
20 furtherance of a drug trafficking crime in violation of Section 924(c) of Title 18 of the United States
21 Code. This document contains the complete plea agreement between the United States Attorney's
22 Office for the Eastern District of California (the "government") and the defendant regarding this case.
23 This plea agreement is limited to the United States Attorney's Office for the Eastern District of
24 California and cannot bind any other federal, state, or local prosecuting, administrative, or regulatory
25 authorities.

26 B. Court Not a Party

27 The Court is not a party to this plea agreement. Sentencing is a matter solely within the
28 discretion of the Court, and the Court may take into consideration any and all facts and circumstances

1 concerning the criminal activities of defendant, including activities that may not have been charged in
2 the superseding information. The Court is under no obligation to accept any recommendations made by
3 the government, and the Court may in its discretion impose any sentence it deems appropriate up to and
4 including the statutory maximum stated in this plea agreement.

5 If the Court should impose any sentence up to the maximum established by the statute, the
6 defendant cannot, for that reason alone, withdraw his guilty plea, and he will remain bound to fulfill all
7 of the obligations under this plea agreement. The defendant understands that neither the prosecutor,
8 defense counsel, nor the Court can make a binding prediction or promise regarding the sentence he will
9 receive.

10 II. DEFENDANT'S OBLIGATIONS

11 A. Guilty Plea

12 The defendant will plead guilty to Count One, possessing a firearm in furtherance of a drug
13 trafficking crime in violation of Section 924(c) of Title 18 of the United States Code. The defendant
14 agrees that he is in fact guilty of these charges and that the facts set forth in the Factual Basis For Plea
15 attached hereto as Exhibit A are accurate.

16 The defendant agrees that this plea agreement will be filed with the Court and become a part of
17 the record of the case. The defendant understands and agrees that he will not be allowed to withdraw his
18 plea should the Court not follow the government's sentencing recommendations.

19 The defendant agrees that the statements made by him in signing this Agreement, including the
20 factual admissions set forth in the factual basis, shall be admissible and useable against the defendant by
21 the United States in any subsequent criminal or civil proceedings, even if the defendant fails to enter a
22 guilty plea pursuant to this Agreement. The defendant waives any rights under Rule 11(f) of the Federal
23 Rules of Criminal Procedure and Rule 410 of the Federal Rules of Evidence, to the extent that these
24 rules are inconsistent with this paragraph or with this Agreement generally.

25 The defendant agrees that §§ 3143(a)(2) and 3145(c) govern his release or detention pending
26 sentence. Thus, because he is "[a] person subject to detention pursuant to section 3143(a)(2)" only if he
27 "meets the conditions of release set forth in section 3143(a)(1)" and "it is clearly shown that there are
28 exceptional reasons why" his detention "would not be appropriate" may he be released. 18 U.S.C.

1 § 3145(c).

2 **B. Sentencing Recommendation**

3 The defendant and his counsel agree that the five-year mandatory minimum sentence is
4 appropriate.

5 **C. Special Assessment**

6 The defendant agrees to pay a special assessment of \$100 at the time of sentencing by delivering
7 a check or money order payable to the United States District Court to the United States Probation Office
8 immediately before the sentencing hearing. If the defendant is unable to pay the special assessment at
9 the time of sentencing, he agrees to earn the money to pay the assessment, if necessary by participating
10 in the Inmate Financial Responsibility Program.

11 **D. Defendant's Violation of Plea Agreement or Withdrawal of Plea**

12 If the defendant, violates this plea agreement in any way, withdraws his plea, or tries to withdraw
13 his plea, this plea agreement is voidable at the option of the government. The government will no longer
14 be bound by its representations to the defendant concerning the limits on criminal prosecution and
15 sentencing as set forth herein. One way a defendant violates the plea agreement is to commit any crime
16 or provide any statement or testimony which proves to be knowingly false, misleading, or materially
17 incomplete. Any post-plea conduct by a defendant constituting obstruction of justice will also be a
18 violation of the agreement. The determination whether the defendant has violated the plea agreement
19 shall be decided under a probable cause standard.

20 If the defendant violates the plea agreement, withdraws his plea, or tries to withdraw his plea, the
21 government shall have the right: (1) to prosecute the defendant on any of the counts to which he pleaded
22 guilty; (2) to reinstate any counts that may be dismissed pursuant to this plea agreement; and (3) to file
23 any new charges that would otherwise be barred by this plea agreement. The defendant shall thereafter
24 be subject to prosecution for any federal criminal violation of which the government has knowledge,
25 including perjury, false statements, and obstruction of justice. The decision to pursue any or all of these
26 options is solely in the discretion of the United States Attorney's Office.

27 By signing this plea agreement, the defendant agrees to waive any objections, motions, and
28 defenses that the defendant might have to the government's decision to exercise the options stated in the

1 previous paragraph. Any prosecutions that are not time-barred by the applicable statute of limitations as
2 of the date of this plea agreement may be commenced in accordance with this paragraph,
3 notwithstanding the expiration of the statute of limitations between the signing of this plea agreement
4 and the commencement of any such prosecutions. The defendant agrees not to raise any objections
5 based on the passage of time with respect to such counts including, but not limited to, any statutes of
6 limitation or any objections based on the Speedy Trial Act or the Speedy Trial Clause of the Sixth
7 Amendment to any counts that were not time-barred as of the date of this plea agreement.

8 In addition: (1) all statements made by the defendant to the government or other designated law
9 enforcement agents, or any testimony given by the defendant before a grand jury or other tribunal,
10 whether before or after this plea agreement, shall be admissible in evidence in any criminal, civil, or
11 administrative proceedings hereafter brought against the defendant; and (2) the defendant shall assert no
12 claim under the United States Constitution, any statute, Rule 11(f) of the Federal Rules of Criminal
13 Procedure, Rule 410 of the Federal Rules of Evidence, or any other federal rule, that statements made by
14 the defendant before or after this plea agreement, or any leads derived therefrom, should be suppressed.
15 By signing this plea agreement, the defendant waives any and all rights in the foregoing respects.

16 **E. Forfeiture**

17 Defendant agrees to abandon and forfeit all of his right, title, and interest to the Drug
18 Enforcement Administration in the following property:

- 19 1. Glock handgun Model 21C with serial number CHX888US, and
20 2. Smith & Wesson Model 36 with serial number 676804.

21 **III. THE GOVERNMENT'S OBLIGATIONS**

22 **A. Recommendations**

23 1. Incarceration Range

24 The government will recommend that the defendant be sentenced to the five-year mandatory
25 minimum sentence.

26 2. Acceptance of responsibility

27 The government will recommend a two-level reduction (if the offense level is less than 16) or a
28 three-level reduction (if the offense level reaches 16) in the computation of defendant's offense level if

A.M

1 he clearly demonstrates acceptance of responsibility for his conduct as defined in U.S.S.G. § 3E1.1.
2 This includes the defendant meeting with and assisting the probation officer in the preparation of the
3 pre-sentence report, being truthful and candid with the probation officer, and not otherwise engaging in
4 conduct that constitutes obstruction of justice within the meaning of U.S.S.G § 3C1.1, either in the
5 preparation of the pre-sentence report or during the sentencing proceeding.

6 **B. Use of Information for Sentencing**

7 The government is free to provide full and accurate information to the Court and the United
8 States Probation Office ("Probation"), including answering any inquiries made by the Court and/or
9 Probation, and rebutting any inaccurate statements or arguments by the defendant, his attorney,
10 Probation, or the Court. The defendant also understands and agrees that nothing in this Plea Agreement
11 bars the government from defending on appeal or collateral review any sentence that the Court may
12 impose.

13 **IV. ELEMENTS OF THE OFFENSE**

14 At a trial, the government would have to prove beyond a reasonable doubt the following
15 elements of the offense(s) to which the defendant is pleading guilty:

16 As to Count One, possessing a firearm in furtherance of a drug trafficking crime in violation of
17 Section 924(c) of Title 18 of the United States Code:

- 18 1. The defendant committed the crime of manufacturing marijuana in violation of 21 U.S.C.
19 Section 841(a)(1), which is a drug trafficking crime;
- 20 2. The defendant knowingly possessed a Glock handgun Model 21C with serial number
21 CHX888US and a Smith & Wesson Model 36 with serial number 676804; and
- 22 3. The defendant possessed the firearms in furtherance of the crime of manufacturing
23 marijuana.

24 The defendant fully understands the nature and elements of the crimes charged in the
25 superseding information to which he is pleading guilty, together with the possible defenses thereto, and
26 has discussed them with his attorney.

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V. MAXIMUM SENTENCE

A. Maximum penalty

The maximum sentence that the Court can impose is a lifetime of incarceration, a fine of \$ 250,000, a 5-year period of supervised release and a special assessment of \$100. The charge to which defendant is pleading guilty carries a five-year mandatory minimum sentence, absent a motion by the government for reduction pursuant to 18 U.S.C. § 3553(e). In addition, the defendant may be ineligible for certain federal and/or state assistance and/or benefits, pursuant to 21 U.S.C. § 862. By signing this plea agreement, the defendant also agrees that the Court can order the payment of restitution for the full loss caused by the defendant's wrongful conduct. The defendant agrees that the restitution order is not restricted to the amounts alleged in the specific counts to which the defendant is pleading guilty. The defendant further agrees, as noted above, that he will not attempt to discharge in any present or future bankruptcy proceeding any restitution imposed by the Court.

B. Violations of Supervised Release

The defendant understands that if he violates a condition of supervised release at any time during the term of supervised release, the Court may revoke the term of supervised release and require the defendant to serve up to 5 years of additional imprisonment.

VI. SENTENCING DETERMINATION

A. Statutory Authority

The defendant understands that the Court must consult the Federal Sentencing Guidelines and must take them into account when determining a final sentence. The defendant understands that the Court will determine a non-binding and advisory guideline sentencing range for this case pursuant to the Sentencing Guidelines and must take them into account when determining a final sentence. The defendant further understands that the Court will consider whether there is a basis for departure from the guideline sentencing range (either above or below the guideline sentencing range) because there exists an aggravating or mitigating circumstance of a kind, or to a degree, not adequately taken into consideration by the Sentencing Commission in formulating the Guidelines. The defendant further understands that the Court, after consultation and consideration of the Sentencing Guidelines, must impose a sentence that is reasonable in light of the factors set forth in 18 U.S.C. § 3553(a).

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VII. WAIVERS

A. Waiver of Constitutional Rights

The defendant understands that by pleading guilty he is waiving the following constitutional rights: (a) to plead not guilty and to persist in that plea if already made; (b) to be tried by a jury; (c) to be assisted at trial by an attorney, who would be appointed if necessary; (d) to pursue any affirmative defenses, Fourth Amendment or Fifth Amendment claims, constitutional challenges to the statutes of conviction, and other pretrial motions that have been filed or could be filed; (e) to subpoena witnesses to testify on his behalf; (f) to confront and cross-examine witnesses against him; and (g) not to be compelled to incriminate himself.

B. Waiver of Appeal and Collateral Attack

The defendant understands that the law gives the defendant a right to appeal his guilty plea, conviction, and sentence. The defendant agrees as part of his plea/pleas, however, to give up the right to appeal the guilty plea, conviction, and the sentence imposed in this case as long as the sentence does not exceed the statutory maximum. The defendant understands that this waiver includes, but is not limited to, any and all constitutional and/or legal challenges to the defendant's conviction and guilty plea, including arguments that the statutes to which defendant is pleading guilty are unconstitutional, and any and all claims that the statement of facts attached to this agreement is insufficient to support the defendant's plea of guilty. The defendant specifically gives up the right to appeal any order of restitution the Court may impose.

Notwithstanding the defendant's waiver of appeal, the defendant will retain the right to appeal if one of the following circumstances occurs: (1) the sentence imposed by the District Court exceeds the statutory maximum; and/or (2) the government appeals the sentence in the case. The defendant understands that these circumstances occur infrequently and that in almost all cases this Agreement constitutes a complete waiver of all appellate rights.

In addition, regardless of the sentence the defendant receives, the defendant also gives up any right to bring a collateral attack, including a motion under 28 U.S.C. § 2255 or § 2241, challenging any aspect of the guilty plea, conviction, or sentence, except for non-waivable claims.

If the defendant ever attempts to vacate his plea, dismiss the underlying charges, or modify or set

1 aside his sentence on any of the counts to which he is pleading guilty, the government shall have the
2 rights set forth in paragraph II.D (Defendant's Violation of Plea Agreement) herein.

3 **C. Impact of Plea on Defendant's Immigration Status**

4 Defendant recognizes that pleading guilty may have consequences with respect to his
5 immigration status if he is not a citizen of the United States. Under federal law, a broad range of crimes
6 are removable offenses, including offense(s) to which the defendant is pleading guilty. The defendant
7 and his counsel have discussed the fact that the charge to which the defendant is pleading guilty is an
8 aggravated felony, or a crime that is likely to be determined to be an aggravated felony under 8 USC §
9 1101(a)(43), and that while there may be arguments that defendant can raise in immigration proceedings
10 to avoid or delay removal, it is virtually certain that defendant will be removed. Indeed, because
11 defendant is pleading guilty to a federal drug trafficking offense, removal is presumptively mandatory.
12 Removal and other immigration consequences are the subject of a separate proceeding, however, and
13 defendant understands that no one, including his attorney or the district court, can predict to a certainty
14 the effect of his conviction on his immigration status. Defendant nevertheless affirms that he wants to
15 plead guilty regardless of any immigration consequences that his plea may entail, even if the
16 consequence is his automatic removal from the United States.

17 **VIII. ENTIRE PLEA AGREEMENT**

18 Other than this plea agreement, no agreement, understanding, promise, or condition between the
19 government and the defendant exists, nor will such agreement, understanding, promise, or condition
20 exist unless it is committed to writing and signed by the defendant, counsel for the defendant, and
21 counsel for the United States.

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IX. APPROVALS AND SIGNATURES

A. Defense Counsel

I have read this plea agreement and have discussed it fully with my client. The plea agreement accurately and completely sets forth the entirety of the agreement. I concur in my client's decision to plead guilty as set forth in this plea agreement.

Dated: 10.7.22


James Homola
Counsel for Defendant

B. Defendant

I have read this plea agreement and carefully reviewed every part of it with my attorney. I understand it, and I voluntarily agree to it. Further, I have consulted with my attorney and fully understand my rights with respect to the provisions of the Sentencing Guidelines that may apply to my case. No other promises or inducements have been made to me, other than those contained in this plea agreement. In addition, no one has threatened or forced me in any way to enter into this plea agreement. Finally, I am satisfied with the representation of my attorney in this case.

Dated: 10-7-22



ALEXIS MELCHOR-GUZMAN,
Defendant

C. Attorney for the United States

I accept and agree to this plea agreement on behalf of the government.

Dated: 10/11/22

PHILLIP A. TALBERT
United States Attorney

By: 
JUSTIN J. GILIO
Assistant United States Attorney

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EXHIBIT "A"
Factual Basis for Plea

If this matter proceeded to trial, the United States would establish the following facts beyond a reasonable doubt:

On September 24, 2019, agents executed a search warrant at MELCHOR-Guzman's residence in the Eastern District of California. During the search they found 70 marijuana plants in the backyard. The marijuana plants were planted in potting soil within black fabric pots. Inside MELCHOR-Guzman's bedroom, agents found two firearms: a Glock handgun Model 21C with serial number CHX888US and a Smith & Wesson Model 36 with serial number 676804.

MELCHOR-Guzman committed the crime of manufacturing marijuana in violation of 21 U.S.C. Section 841(a)(1), a drug trafficking crime; MELCHOR-Guzman knowingly possessed the Glock handgun Model 21C with serial number CHX888US and the Smith & Wesson Model 36 with serial number 676804; and MELCHOR-Guzman possessed the firearms in furtherance of the crime of manufacturing marijuana in that he possessed those firearms to protect his marijuana plants from robbery.

Dated: 10-7-22

Alexis melchor Guzman
ALEXIS MELCHOR-GUZMAN,
Defendant